

Pupukea Marine Life Conservation District
Task Force Meeting #2
Agenda 10/13/99
6:30 p.m. - 9:30 p.m.

Verification of Task Force Members' receipt of Mailings from Senator Bunda's office
Discussion of Agenda components and agenda sequence

Opening Pule by Wayne

- I. DLNR Background Information Presentations
(Per pre circulated agenda and previous meeting's topic prioritization vote)
 - A. Hierarchy of Rule Making (Alton)
 - B. Overview of Regulated Fishing Areas and Terms (Alton)
 - C. Overview of Regulations that Currently Exist for Pupukea (Athline)
 - D. Overview of Outcomes Needed from Task Force (Athline)
- II. Task Force Updates
 - A. Delegate Roles and Responsibilities Part 2
 - B. Delegate Reports
- III. Marine Protected Areas Overview (Carl Meyer)
- IV. Hanauma Bay Marine Protected Area
 - A. County Perspective (Alan Hong)
 - B. Friends of Hanauma Bay Perspective (Dick Baker)
- V. Next Meeting Agenda Components Discussion

10/13/99 Meeting Notes

- I. **A. Hierarchy of Rule Making:**
An exhibit was distributed entitled, "HIERARCHY OF STATE LAWS" which illustrated the general ranking of rules in order of their applicability. Generally:
 - Federal rules prevail over State rules if there is a conflict between the two.
 - State law prevails in the event that there is no applicable Federal law.
 - For example, the Federal Endangered Species Act would take precedent over State law. The State law could list more endangered species than the federal law.
 - If the state law is more restrictive than the Federal law, the state law would apply.
 - There are federal laws that allow states to exercise specific rights - coastal zone management prerogatives, for example, give power to the states to do their own rule-making.
 - Note 0-3 mile zone subject generally to State determined practices. Between 24 - 200 miles from shore is generally subject to Federal jurisdiction. Between 3-24 miles is a disputed area.

- Yet there is a Federally established exclusive Economic Zone that extends out 200 miles while the State has certain jurisdictions from the shoreline to 3 miles out.
- There are numerous examples of overlapping and sometimes contradictory provisions.

Another Exhibit entitled, "GENERAL PROCEDURE TO ADOPT DLNR ADMINISTRATIVE RULES" was distributed for discussion. Generally:

- There are a number of opportunities during the process for public input. The drafting of rules follows public discussion.
- While the task force is being asked to accomplish its task in 6 months (to demonstrate the value of increased community participation at the outset), there is not a mandate to do so.
- If the Attorney General or Governor doesn't approve of aspects of proposed law DLNR may be required to make changes and may go back to the public for additional discussion to address substantive changes.
- If during public hearings there is a high degree of contention around specific issues, DLNR may be required to redraft rules to reflect public testimony.
- Senator Bunda acknowledged that the North Shore has an opportunity to demonstrate its ability to do a better and faster job than occurs through the usual process, by investing its efforts in cooperatively shaping the initial draft rules as part of a community based process.

I. B. Overview of Regulated Fishing Areas and Terms

TITLE 13 STATE DEPARTMENT OF LAND AND NATURAL RESOURCES
SUBTITLE 4 FISHERIES PART I MARINE LIFE CONSERVATION DISTRICTS
CHAPTER 34 PUPUKEA MARINE LIFE CONSERVATION DISTRICT, OAHU
excerpts were cited and reviewed from the 10/7 mailing to task force members

- Task Force query: Do changes to these rules require the same process described in part A of this agenda item? YES.

I. C. Overview of Regulations that Currently Exist for Pupukea?

CITY AND COUNTY OF HONOLULU DEPARTMENT OF PARKS AND RECREATION AMENDED RULES AND REGULATIONS GOVERNING COMMERCIAL SCUBA DIVING (TO INCLUDE SNUBA) AND SNORKELING ACTIVITIES IN CITY BEACH PARKS LOCATED WITHIN STATE COONSERVATION DISTRICTS (EXCEPT HANAUMA BAY NATURE PARK, KOKO HEAD, SANDY BEACH PARK, AND MAKAPUU BEACH PARK) PART VIII: excerpts were cited and reviewed from the 10/7 mailing to task force members.

- Each permit holder can have a total of 10 people at each location
- There is no restriction as to the number of permit holders at a site at a specific time
- Fines of \$500 or 30 days in jail or both can be invoked for violations
- Revocation of permits is also a possible consequence for violations
- The City has a compatible hierarchy to that of the state: City council promulgates ordinances which are supported by regulations just as the legislature promulgates statutes which are supported by regulations.
- City ordinances do not necessarily supersede state law

- The State laws apply to access through the park to get to the resources
- Dual jurisdictions are involved; City/park - State/water
- Police enforce city laws.

I. D. Outcomes Needed from the Task Force

There are 4 types of decisions needed from the group:

Fishing: What will be allowed?

Boating: Motorized and non-motorized vessels allowed?

Boundaries as they currently exist can be extended

Commercial Scuba Diving - Stay with City as it exists or continue under state regulations?

- The state will not change regulations to make them less restrictive.
- This Task Force's role is to make recommendations to DLNR

II. Task Force Updates

A. Delegate Roles and Responsibilities Part 2:

- It's ok for task force members to share contact information to contact one another to advise them of interim activities supportive of the Task Force's efforts.
- Laura requested that corrections to the contact list be made available to her to facilitate revision of the contact information.
- Task force members were encouraged to inform Laura and/or DLNR staff of interim activities to help increase awareness of and attendance at events by other Task Force members.

B. Delegate Reports

- Marlu reported on Alan Hong's presentation at a community meeting.
- Ken reported on a questionnaire that appeared in the North Shore News
(See survey and notes Attachment)
Ken also shared articles from the LA Times

III. Marine Protected Areas Overview

(See Carl Meyer's notes Attachment)

IV. Hanauma Bay Nature Park

A. County Perspective

- In 1989 3 million visitors or 10-12,000 on average visited Hanauma each day
- During busier summer months there were possible twice that amount daily
- During peak hours, 1 bus bearing 42 passengers arrived every 57 seconds
- Visitors were often furnished peas or bread to feed fish
- Some estimates put the amount of bread introduced into the bay at 1/2 ton per day
- In 1990 Restrictions were put into effect
- Currently the county issues limited # of permits - 21 available
- Only 6 operators are permitted at a time.
- Parks can be viewed as areas for "containing" diving activity so it doesn't occur in beaches at neighborhoods.
- Professional instruction and guided tours can mitigate damage
- There is no boating or fishing permitted in Hanauma
- Hanauma is a high profile area - specific rules were developed: Commercial

- divers are allowed only 6 in their party Vs, 10 permitted in other locations.
- Any commercial divers using parks need a permit. Only 21 permits issued. If something is not specifically authorized, it is prohibited
- Rules are difficult to understand and enforcement is difficult Restrictions require enforcement provisions
- Daily logs are checked against permits
- Parks or police officers can enforce rules, though police officers are often unfamiliar with them.
- If reporting a violation to police officers - provision of the relevant citations will help.
- Although restrictions are difficult to enforce, an effort needs to be made.
- Revenues from concessions help defray costs of operating the park with excess funds used to maintain adjacent land deeded to the County by KSBE in 1927.

IV. B. Friends of Hanauma Bay Perspective

- A part time director, student help and a volunteer coordinator carry out the educational and monitoring activities. Volunteers on the beach interact with users to enforce no smoking rules.
 - Effective 11/1 feeding fish will be prohibited at Hanauma Bay
 - Historic Preservation / Sanctuary with Cultural Historical Preservation aspects might be worth investigating - (Lapakahi state park)
 - The Pupukea "problem" can be viewed as an opportunity to get people involved in the formation of a private non-profit.
- Such an entity can
- provide public education/articles/information
 - organize volunteers to help at the beach
 - Conduct fundraising to support its activities/events to promote improvement of the facility in cooperation with the city or the state.
 - Generate a list of dos and don'ts
 - Inform people about and help shape rules and regulations
 - Support and stimulate government to respond to complaints and violations
 - Copies of the Friends of Hanauma Bay Constitution are available

Next Meeting Agenda

6:30 p.m. 11/10/99

Prospective topics:

What are the proposed changes? Deal with these first.

One of these Core topics:

FISHING: Spear, netting, Pole and Line Fishing: Is there agreement to restrict/prohibit/stay the same?

BOATING

COMMERCIAL DIVING

BOUNDARIES: Expansion of Boundaries and Rules Proposed (KEN)